IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1794 of 2002

And

FIRST APPEALNo 1795 of 2002

with

CIVIL APPLICATION No 6340 of 2002
And
CIVIL APPLICATION NO 6341 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

UNITED INDIA INSURANCE CO LTD.

Versus

MINOR VIRAL MAHESHKUMAR

Appearance:

1. First Appeal No. 1794 of 2002

MR PV NANAVATI for Petitioner No. 1
MR VIBHUTI NANAVATI for Petitioner No. 1
MR BG JANI for Respondent No. 1-5
NOTICE SERVED for Respondent No. 1-5
MR DP KINARIWALA for Respondent No. 6

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 22/01/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1. Mr. B.G. Jani, learned advocate appears for the respondents. On request by learned advocates for the parties both the appeals are taken up today for disposal as both these appeals are directed against the rate of interest awarded by M.A.C. Tribunal (Auxi) at Ahmedabad.

In F.A. No. 1794 of 2002:

2. It is suggested from the impugned award that the M.A.C. Petition No. 1167 of 1998 came to be filed in respect of the accident which took place on 25-1-1998 wherein one Maheshbhai sustained injuries and later on succumbed to the same. It is also suggested that Maheshbhai along with wife and son Umeshbhai were proceeding on scooter from Naroda to Vahelal village and deceased Maheshbhai was riding said scooter and at about 7.45 p.m. opponent no.1 came with his vehicle bearing No: GJ-10-U- 3549 in a rash and negligent manner and dashed with the said scooter. On account of said collision between two vehicles son Umeshbhai sustained severe injuries and the wife Sharmishtaben suffered minor injuries, whereas Maheshbhai as said above succumbed to the injuries suffered by him. The Claims Tribunal appreciating evidence on record awarded amount of Rs.5,34,000/- by way of compensation with interest at the rate of 12 %. In the present appeal the appellant Insurance Company challenges 12 % rate of interest granted by the Claims Tribunal in the impugned award.

In F.A. No.. 1795 of 2002

2. This appeal is against the impugned judgment & award passed by the Claims Tribunal in MAC Petition No.

471 of 1998 filed by minor Umesh Maheshkumar, who sustained fracture of jaw in the abovesaid accident. Considering the injury sustained and disability of 10 % Claims Tribunal awarded amount of Rs.33,000/- with interest at the rate of 12 % per annum. In this appeal the appellant Insurance Company challenges 12 % rate of interest granted by the Claims Tribunal in the impugned award.

3. It is submitted by Mr. P.V. Nanavati learned advocate for the appellant that the rate of interest awarded by Claims Tribunal deserves to be interfered with as the interest rate now prevalent at the national level in a long term fixed deposit is 9 %.

4. Mr. B.G. Jani, learned advocate for the respondents contents that the rate of interest awarded by the Claims Tribunal is just & proper and does not call for any interference.

5. In the case of Kaushnuma Begum Vs. New India Assurance Company, JT 2001 (1) SC, pg. 375, Supreme Court while fixing rate of interest has observed that, Section 171 of M.C. Act empowers the Tribunal to direct "in addition to the amount of compensation, simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf." Earlier, 12 percent was found to be the reasonable rate of simple interest. With a change in economy and the policy of the Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9 percent on fixed deposits for one year. We, therefore, direct that the compensation amount fixed herein before shall bear interest at the rate of 9 percent per annum from the date of the claim made by the appellants...."

It will be seen from the above that Supreme Court has assigned reasons as to why the rate of 9 % should be awarded on the amount of compensation under section 171 of M.V. Act.

6. In view of the above, the appeals are allowed and the claimants are entitled to interest at the rate of 9 % from the date of application till realisation of awarded amount. Appeals disposed of accordingly. No order as to costs.

In C.A. No: 6340 and 6341 of 2002:

1. It is stated by Mr. P.V. Nanavati, learned advocate for the applicant Insurance Company that the entire awarded amount together with cost and interest have been deposited with the Claims Tribunal. In the impugned award Tribunal has observed that the order of disbursement will be passed after the amount is deposited.

2. In view of the above, M.A.C. Tribunal shall pass appropriate orders as regards disbursement of the amount deposited. No further order is necessitate in the civil applications. Rule discharged.

Dt: 22-1-2003 (N.G. Nandi, J)

(D.A. Mehta, J)

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